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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/682,423 | 08/31/2001 | Jeffrey Thomas Kiesler | 9D-DW-19892 | 9460 |

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EXAMINER

REDMAN, JERRY E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3634

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,423

Applicant(s)

KIESLER ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 3-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent to Bertsch et al. in view of Japanese patent No. 54-42833. Bertsch et al. disclose a panel (24) having a formation (42), a seal member (40) extending from formation (42) and having a flap portion (46 and 50) extending from a head portion (44), the panel (24) having a flat barrier portion (the portion above formation (42)) and a curved portion (the portion just below formation (42)). Bertsch et al. fail to disclose a mounting assembly having a toe and heel arrangement and a seal having a complementary arrangement for mounting thereto. As shown in Figure 6 (an enlarged view is also attached), Japanese patent No. 54-42833 discloses a sealing member having a toe and heel arrangement (7) and a curved portion (the rounded portion extending between the toe and heel) extending therebetween and a seal (1) having a complementary shaped opening/mounting arrangement. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Bertsch et al. with a mounting assembly in a toe and heel shape type arrangement as taught by Japanese patent No. 54-42833 since the mounting assembly allows the seal member to be firmly attached when mounted but also allows one to easily replace or remove the seal member.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 21 and 22 are rejected under 35 U.S.C. 102(a) as being anticipated by Japanese patent No 54-42833. As shown in Figure 6, Japanese patent No. 54-42833 discloses a seal (1) comprising a head portion (the portion which mounts complementary portion (7)), a flap portion (the portion which is extending and engaging a movable door panel), and a heel and toe opening type arrangement (the L-shaped portion which is perpendicular to each other) having an arched portion extending therebetween.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Tix discloses a weatherstrip/seal having a shape, which contacts a door similar to that of the applicant's invention.

The applicant's arguments have been considered but are not deemed persuasive. Firstly, the applicant is correct in stating that publication of EP 1,281,245 to Gobbi is later than that of the applicant's filing date. With respect to the applicant's arguments of Japanese patent No. 54-42833, it appears that the applicant's arguments are more limiting than that of the claims. The applicant merely describes Japanese patent No. 54-42833 does in it's environment and fails to see how the seal reads on the applicant's invention. The applicant broadly recites terms such as "head portion", "flap


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portion", and "boot-shaped opening" having a "heel" and "toe" portion. Japanese patent No. 54-42833 clearly discloses these elements as discussed in detail above.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



Jerry Redman
Primary Examiner